

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA

Plaintiff,

vs.

DAVID HERRICK,

Defendant.

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8:05CR311

DETENTION ORDER

A. Order For Detention

After conducting a detention hearing pursuant to 18 U.S.C. § 3142(f) of the Bail Reform Act on September 19, 2005, the Court orders the above-named defendant detained pursuant to 18 U.S.C. § 3142(e) and (i).

B. Statement Of Reasons For The Detention

The Court orders the defendant's detention because it finds:

___ By a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required.

X By clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person or the community.

C. Finding Of Fact

The Court's findings are based on the evidence which was presented in court and that which was contained in the Pretrial Services Report, and includes the following:

X (1) Nature and circumstances of the offense charged:

X (a) The crime: possession of a firearm by a felon in violation of 18 U.S.C. § 922(g) (Count I) and the possession of a stolen in violation of 18 U.S.C. § 922(j) (Count II), both carrying a maximum sentence of ten years imprisonment; the possession of a firearm with an obliterated serial number in violation of 18 U.S.C. § 922(k) carries a maximum sentence of five years imprisonment.

___ (b) The offense is a crime of violence.

___ (c) The offense involves a narcotic drug.

___ (d) The offense involves a large amount of controlled substances, to wit:

X (2) The weight of the evidence against the defendant is high.

X (3) The history and characteristics of the defendant including:

(a) General Factors:

X The defendant appears to have a mental condition which may affect whether the defendant will appear.

___ The defendant has no family ties in the area.

X The defendant has no steady employment.

X The defendant has no substantial financial resources.

___ The defendant is not a long time resident of the community.

___ The defendant does not have any significant community ties.

___ Past conduct of the defendant:

X The defendant has a history relating to drug abuse.

___ The defendant has a history relating to alcohol abuse.

X The defendant has a significant prior criminal record.

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____ The defendant has a prior record of failure to appear at court proceedings.

(b) At the time of the current arrest, the defendant was on:

____ Probation

____ Parole

____ Release pending trial, sentence, appeal or completion of sentence.

(c) Other Factors:

____ The defendant is an illegal alien and is subject to deportation.

____ The defendant is a legal alien and will be subject to deportation if convicted.

____ The Bureau of Immigration and Custom Enforcement (BICE) has placed a detainer with the U.S. Marshal.

____ Other: _____

 X (4) The nature and seriousness of the danger posed by the defendant's release are as follows: The defendant has a significant criminal history involving violent crimes. He has a violent behavior history. He has a substance abuse history.

D. **Additional Directives**

Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

1. The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeal; and
2. The defendant be afforded reasonable opportunity for private consultation with counsel; and
3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: September 19, 2005.

BY THE COURT:

s/Thomas D. Thalken

United States Magistrate Judge